S.B.CIVIL WRIT PETITION NO.2316/1999.

22.08.2006.

HON'BLE MR.JUSTICE DALIP SINGH

Mr.R.D.Rastogi]
Mr.N.S.Chouhan] for the petitioner.

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The petitioner in this writ petition has challenged the order passed by the learned Motor Accident Claims Tribunal under Section 140 of the Motor Vehicles Act, 1988.

It is contended that the present case is not one covered by Section 166 of the Motor Vehicles Act and, therefore, the provisions of Section 140 will not apply.

It is submitted that in the present case, the injuries which were received were on account of the bomb blast that occurred in the bus belonging to the petitioner-Corporation and as such it cannot be considered that the injuries sustained were as a result of the 'accident'.

It has also been submitted by the learned counsel for the petitioner that in a public interest petition being D.B.Civil Writ Petition No.4781/1996 filed by the family members of Mahuva Bomb Blasting victims, this court vide its order dated 15.05.1998 had directed that the compensation in the case of death be paid by the R.S.R.T.C. of Rs.50,000/- and Rs.10,000/- in the case of injured persons. One the basis of the above, it is submitted that Corporation has already paid to the

petitioner who was injured a sum of Rs.10,000/- and, therefore, there was no necessity for passing an award under Section 140 for No Fault Liability. It is submitted that aforesaid amount of Rs.10,000/- was sufficient to meet the requirements of No Fault Liability.

Having heard learned counsel for the petitioner and having perused the above order passed by this court, as reproduced at page 7 of the writ petition, and in the facts and circumstances of the case, it is hereby directed that the learned Tribunal shall proceed to decide the claim petition in accordance with law and the question about the maintainability of the claim petition in the facts and circumstances under the Motor Vehicles Act, 1988 shall also be decided by the Tribunal. The amount which has been paid to the petitioner shall be subject to the decision of the main claim petition. The claimant shall furnish a solvent security for the amount of Rs.10,000/- for restitution of the amount in case the claim petition fails.

Subject to the above, this writ petition stands disposed of. The stay application also stands disposed of.

(DALIP SINGH),J.

Solanki DS, Jr.P.A.